

\$400

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ERICA LYN HELLSTERN
213 Elbow Lane
Landenberg, PA 19350

v.

RAYMOND H. WASHBURN
3845 Rte. 16 N TRLR 1L
Olean, NY 14780
and
DEJONGE TRUCKING, INC.
1961 Petrolia Hill Rd.
Wellsville, NY 14895

CIVIL ACTION NO.

FILED

APR 05 2019

KATE B. KIMMAN, Clerk
By JK Dep. Clerk

CIVIL ACTION – COMPLAINT

THE PARTIES

1. Plaintiff, Erica Lyn Hellstern (“Hellstern”), is an adult individual and resident of the Commonwealth of Pennsylvania who resides at 213 Elbow Lane, Landenberg, PA 19350.
2. Defendant, Raymond H. Washburn (“Washburn”), is an adult individual and resident of the State of New York who resides at 3845 Rte. 16 N TRLR 1L, Olean, NY 14780.
3. Defendant, DeJonge Trucking, Inc. (“DeJonge”), is a trucking and/transportation business or other corporate entity incorporated in the State of New York that does business in the Commonwealth of Pennsylvania with a principal place of business located at 1961 Petrolia Hill Rd., Wellsville, NY 14895.

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JURISDICTION

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1332(a)(1) and (b) in that “the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.”

VENUE

5. Venue over this action is appropriate in this matter pursuant to 18 U.S.C. 1391(a)(2), in that a substantial part of the events giving rise to the claim, the subject motor vehicle accident, occurred in the Eastern District of Pennsylvania in Lancaster County, Pennsylvania.

FACTUAL ALLEGATIONS

6. Plaintiff, Erica Lyn Hellstern, at all times relevant hereto, was operating 2007, Hyundai Tiburon with Pennsylvania license plate number JMV8537 that was owned by her mother, Karen Hellstern.

7. At all times relevant hereto, Defendant, Raymond H. Washburn, was operating a 2009 TSE International Tractor Trailer with New York license plate 31269PC that was owned by defendant DeJonge.

8. At all times relevant hereto, defendant Washburn was operating the said Tractor Trailer with the express or implied permission of defendant, DeJonge.

9. At all times relevant hereto, defendant Washburn was acting as an agent and/or employee of DeJonge.

10. On or about June 1, 2017, at/or about 9:45 a.m., Plaintiff, Erica Lynn Helstern, was operating the 2007 Tiburon eastbound in the 2200 Block of Lincoln Highway in Lancaster County, Pennsylvania, where she had been stopped for a red light behind two other vehicles.

11. At the above time and place, defendant Washburn was operating said tractor trailer directly behind Hellstern when he negligently, carelessly and recklessly took his eyes off of the roadway to look at roller coasters that were on the side of the roadway.

12. At the same time as defendant Washburn took his eyes off the roadway, the traffic light in front of plaintiff Hellstern turned green, and plaintiff Hellstern attempted to move forward, but defendant Washburn failed to stop in time to avoid plaintiff's vehicle and violently struck the rear of her vehicle pushing her vehicle into the vehicles in front of her.

13. The aforesaid accident was caused solely by the negligence, carelessness and recklessness of the defendants Washburn and DeJonge, and was not due to any act or failure to act on the part of the Plaintiff.

COUNT I – NEGLIGENCE AND/OR RECKLESSNESS

14. Plaintiff incorporates by reference paragraphs 1-13 as if fully set forth at length.

15. The carelessness, negligence and recklessness of defendant, Raymond H. Washburn, consisted of the following:

- (a) Operating his tractor trailer erratically;
- (b) Failing to have the tractor trailer under proper and adequate control;
- (c) Failing to pay proper attention while operating the tractor trailer specifically by taking his eyes off of the roadway and failing to observe the vehicles in front of him;
- (d) Failing to take proper precautions in operating the tractor trailer to avoid the collision;
- (e) Failing to maintain an appropriate speed on a highway to avoid a collision;
- (f) Operating the tractor trailer in a reckless, careless, and/or negligent matter without due regard for the rights and safety of Plaintiff;

- (g) Operating the tractor trailer when he knew or should have known that he was unfit and unable to operate the vehicle in a safe and reasonable manner;
- (h) Operating the tractor trailer in disregard for the Rules of the Road and the Laws of the Commonwealth of Pennsylvania, including 75 Pa.C.S. §3361(relating to driving at safe speed); 75 Pa.C.S. §3310(A) (relating to following too closely); 75 Pa.C.S. §3714 (relating to careless driving); 75 Pa.C.S. §3736 (relating to reckless driving) and;
- (i) Then and there acting in conscious disregard for the rights and safety of Plaintiff;
- (j) Then and there remaining consciously indifferent to the rights and safety of Plaintiff; and,
- (k) Then and there otherwise being negligent, careless and/or reckless under all of the circumstances then and there existing.

16. As a direct result of the negligence, carelessness and/or recklessness of the Defendant Washburn, Plaintiff Hellstern, sustained injuries including but not limited to; post-concussive syndrome with aggravation of cephalgia, vestibular dysfunction and difficulty with concentration, post-traumatic cervical strain/sprain syndrome with cervical radiculopathy, post-traumatic lumbosacral strain/sprain syndrome with bulging disc and contusion to the left tibia, together with various other ills and injuries, the exact extent of which are unknown at this time, but which may be and probably are of a permanent nature with disabilities and loss of function.

17. As a direct result of the negligence and carelessness of the Defendant Washburn, Plaintiff Hellstern has in the past suffered and probably will in the future suffer great physical pain and anguish; she has suffered a loss of the enjoyment of her usual and daily activities, and has been in the past and may and probably will in the future be hindered from engaging in her usual and daily duties, occupations, pleasures and activities.

18. As a further direct result of the aforesaid, Plaintiff Hellstern has been or will be obliged to receive and undergo medical attention and care and to incur various expenses, which expenses have or may exceed the sum recoverable under 75 P.S. §1711 of the Pennsylvania Motor Vehicle Financial Responsibility Law ("Pa. MVFRL") and/or the Delaware Motor Vehicle Code, and she may be obliged to continue to expend such sums or incur such expenditures for an indefinite time in the future.

19. As a further direct result of the aforesaid negligence and carelessness of the Defendant Washburn, Plaintiff Hellstern has in the past and may in the future suffer a loss of earnings and impairment of her earning capacity and power all of which have been and will continue to be to her great financial damage and loss, and which do or may exceed amounts that he may be otherwise entitled to recover under the Pa. MVFRL and Delaware Motor Vehicle Code.

20. As a further direct result of the aforesaid negligence and carelessness of the Defendant Washburn, Plaintiff Hellstern has and may hereafter incur other financial expenses or losses, which do or may exceed amounts that she may be otherwise entitled to recover under the Pa. MVFRL and/or Delaware Motor Vehicle Code.

COUNT II
ERICA LYNN HELLSTERN v. DEJONGE TRUCKING, INC.
NEGLIGENT ENTRUSTMENT

21. The plaintiff incorporates paragraphs 1 through 20 as if fully set forth herein.

22. At all times material hereto, Defendant Dejonge Trucking, Inc. ("Dejonge") was the owner of the 2009 TSE International Tractor Trailer with New York license plate 31269PC, and did entrust the operation, possession, and control of the aforesaid tractor trailer to Defendant Washburn who was operating said tractor trailer at the time of this accident.

23. At all times material hereto, Defendant Washburn was operating the aforementioned 2009 TSE International Tractor Trailer with the express and implied knowledge, consent, and permission of Defendant DeJonge.

24. Defendant DeJonge negligently and/or recklessly entrusted the possession, operation and use of the aforesaid tractor trailer to Defendant Washburn at a time when it knew, or should have known, that Defendant Washburn would operate and control the tractor trailer in a manner creating an unreasonable risk of harm based upon information including, but not limited to, Defendant Washburn's poor driving history including traffic violations and/or accidents, and/or his reputation for careless and reckless driving and/or his propensities as a motor vehicle operator.

25. Defendant DeJonge is liable for the injuries of Plaintiff Hellstern that resulted from the negligent, careless and/or reckless entrustment of the aforesaid tractor trailer to Defendant Washburn.

26. At the time of entrustment, Defendant DeJonge consciously disregarded and ignored the obvious risks presented by entrusting the aforesaid tractor trailer to Defendant Washburn.

27. At the time of entrustment, Defendant DeJonge entrusted the aforesaid tractor trailer to Defendant Washburn with the knowledge that it was highly probable that harm would follow.

WHEREFORE, plaintiff demands judgment in her favor in an amount exceeding \$150,000 for damages, interest, costs of suit, attorney's fees and such other relief as the Court deems equitable and just.

JURY DEMAND

Plaintiff hereby demands a jury.

McCANN & WALL, LLC

Dated: 4/2/2019

By: 

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